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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,738

12/31/2003

John M. Rice

RiceWedge

1837

27119

7590

07/05/2007

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EXAMINER

FUQUA, SHAWNTINA T

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/750,738
Filing Date: December 31, 2003
Appellant(s): RICE, JOHN M.

**MAILED
JUL 05 2007
GROUP 3700**

Albert W. Watkins
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/26/06 appealing from the Office action mailed 5/17/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

5,073,699	BOX	12-1991
5,196,677	STASYSHYN	3-1993

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 2, 6-8, 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Box (US5073699).

Box discloses a combination beverage pot and warming surface having a beverage pot (18) for retaining liquid therein and a base (12), and a warming surface (20) is a heat source which couples with pot for maintaining liquid at an elevated temperature (Figure 1), a metal (column 5, lines 11-14) spacer/means to tilt (30, 40, 42) between the pot and the warming surface to elevate a majority of pot above base (Figure 4), spacer/means to tilt (30) is a wedge (40, 42) defined by decreasing thickness (Figures 2-3), spacers are placed on warming surface so that they are offset with respect with the center (Figures 2, 5, 7, 8), and pot can be selectively removed from warming surface and spacer (Figures 4-5). While Box does not explicitly state that the spacer is a means to tilt the pot so that a minority of the pot base is in direct contact with the warming base and a second minority is on the warming surface to form an air blanket therebetween, and wherein point of contact between pot and warming base is where a retained liquid in pot is pooled to a maximum. It is inherent that Box's spacer is capable of meeting the above mentioned criteria simply by placing the pot on the spacers in a tilted manner i.e. one edge

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of pot could be placed on one spacer while other edge of pot could be placed on base (32) thereby tilting pot so that a minority of pot base is in direct contact with the warming base.

Claims 3-5, 9, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Box as applied to claims 1, 2, 6-8, and 11 above in paragraph 2, and further in view of Stasyshyn (US5196677).

Box discloses all of the recited subject matter except a spacer/wedge/tilting means with a rectangular outline from a top view, a wedge with an insignia, wedge thickness is less than an elevation of a pot retaining feature in warming surface, and selectively removing and cleaning spacer. Stasyshyn discloses a removable spacer (column 3, line 61-column 4, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the spacer of Box removable as disclosed by Stasyshyn because, a removeable spacer allows the spacer to be repositioned for a more uniform heating.

Box in view of Stasyshyn discloses all of the recited subject matter except a wedge which is rectangular from a top view, and an advertising insignia on the wedge. Changing the shape of the wedge and including an insignia is generally recognized as being within the level of ordinary skill in the art as evidenced by Stasyshyn in column 4, lines 48-56.

(10) Response to Argument

Appellant's arguments filed in the appeal brief dated 12/26/06 have been fully considered but they are not persuasive. In regard to independent claims 1, 7, and 12, Appellant argues whether Box teaches a device to tilt a beverage pot base relative to the warming surface such that a majority of the base is above and separate and a minority is in direct contact with the warming base. In addition, Appellant argues that Box's thermal interface device (30) is not a warming

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surface because it is a plate inserted between a hot plate and the beverage vessel to be heated. As stated in the Examiner's rejection, while Box does not explicitly state that the spacer is a means to tilt the pot so that a minority of the pot base is in direct contact with the warming base and a second minority is on the warming surface to form an air blanket therebetween, and wherein point of contact between pot and warming base is where a retained liquid in pot is pooled to a maximum. It is inherent that Box's spacer is capable of meeting the above mentioned criteria simply by placing the pot on the spacers in a tilted manner i.e. one edge of pot could be placed on one spacer while other edge of pot could be placed on base (32) thereby tilting pot so that a minority of pot base is in direct contact with the warming base. In addition, the thermal interface device is made of copper which conducts heat ultimately acting as a warming surface.

In regard to dependent claims 2 and 8, Appellant argues that the spacer comprises a wedge defined by a thickness generally decreasing with decreasing distance from a center of beverage pot base. Examiner directs Appellant's attention to Figures 2 and 3 of Box, where it clearly depicts that spacer (40, 42) has a decreasing thickness from the bottom portion (40) of the spacer which is attached to the warming base (32) to the top portion of the spacer (42) wherein the bottom edge portion (40) of the spacer would be closer to the center of the beverage pot base than the top portion (42) of the spacer.

In regard to dependent claims 3, 4, and 9, Appellant argues that a spacer with rectangular geometry and an insignia has novelty. Examiner submits that changing the shape and including an insignia is generally recognized as being within the level of ordinary skill in the art as evidenced by Stasyshyn in column 4, lines 48-56.

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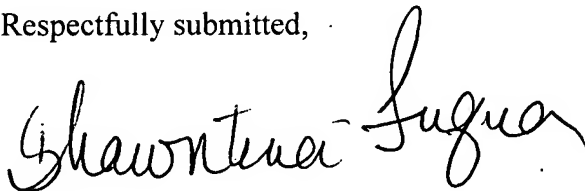
In regard to dependent claims 5 and 10, Appellant argues neither Stasyshyn nor Box illustrate any teaching of a pot retaining feature. Examiner directs Appellants attention to Figures 2-6 of Box wherein the spacer is capable of acting as a pot retaining feature i.e. in Figure 2 of Box, when the beverage vessel is tilted, one bottom side of the beverage vessel would tilt against and rest in between the right lower portion (40) of the two left spacers while the opposite bottom side of the beverage vessel would rest on the two right spacers, thereby allowing the two left spacers to act as a pot retaining feature while the two right spacers act as spacers.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shawntina Fuqua". The signature is written in a cursive, flowing style.

Shawntina Fuqua

Patent Examiner

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stf

May 7, 2007

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